

MEMORANDUM

TO: The White House Task Force on Gun Violence

FROM: The Maternal Family of Noah Pozner

RE: Initial Proposals in Response to the Sandy Hook Shooting

DATE: January 13, 2013

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I. Introduction

On December 14, 2012, our family tragically lost Noah Pozner in the shooting at Sandy Hook Elementary. Noah had just turned six years old. He was a smart and dynamic little boy who loved his family more than anything else.

Noah's young life ended in his first grade classroom when he was shot 11 times at close range.

It is impossible to describe how devastated we all are by Noah's death. The violent death of a young child is a suffering that no family should have to bear. To know that the same intense pain is being felt by all of the other victims' families only makes it much worse.

In Noah's memory, we are determined to make a difference. In this memorandum, the maternal family of Noah Pozner proposes a range of legislative reforms to help prevent another targeted school shooting. The proposals include reforms that have not yet, to our knowledge, been discussed in the national media or at the White House. They are based upon conversations within the family, consultations with school security experts, independent research related to prior school shootings, and discussions with legal professionals who focus on criminal law.

The key principle underlying our proposals is that there is a need for a multifaceted approach. We recognize that no single law or reform will prevent targeted school shootings. However, by enacting a wide range of reforms, federal, state and local governments can make our children much safer in schools. If our efforts help prevent even a single other family from losing a child to gun violence, we will have accomplished our goal.

Given that the shooting occurred a month ago, the memorandum contains only our initial proposals. We are continuing to work on other ideas that will help make our children safe, and will submit additional proposals to the White House at the appropriate time.

This memorandum is authored by Alexis Haller, Noah's uncle and a licensed attorney. The memorandum is submitted on behalf of the following family members of Noah Pozner:

Veronique Pozner (Noah's Mother)
Danielle Vabner (Noah's Sister)
Michael Vabner (Noah's Brother)
Marie-Claude Duytschaever (Noah's Grandmother)
Dirk Duytschaever (Noah's Step-Grandfather)
Ivar Haller (Noah's Grandfather)
Natalie Cornaz (Partner of Noah's Grandfather)
Stephan Haller (Noah's Uncle)
Patricia Haller (Noah's Aunt)
Alexis Haller (Noah's Uncle)
Victoria Haller (Noah's Aunt)

II. Criminal Law Reforms

The legislative response to the shooting at Sandy Hook Elementary needs to be carefully developed. We believe that the two following draft statutes – which we have not yet seen discussed elsewhere – should be part of the legislation enacted to prevent another targeted school shooting.

A. Sandy Hook Reporting Law

1. Proposed Text

Our proposed statutory text is as follows:

Any person who:

- (1) *has knowledge of a grave and imminent threat of serious physical harm or death made by another individual; and*
- (2) *has reasonable cause to believe that such other individual*
 - (a) *owns or possesses a firearm or explosive device,*
 - (b) *has access to a firearm or explosive device in his or her home, vehicle, individual work station, storage unit or locker, or*
 - (c) *has access to a firearm or explosive device in the home, vehicle, individual work station, storage unit or locker of an immediate family member or domestic co-habitant,*

is mandated to notify law enforcement authorities within 24 hours.

For purposes of this statute, “explosive device” means any explosive device of sufficient firepower to kill or maim a human being.

Failure to report in accordance with this statute is a misdemeanor punishable by up to six months of confinement.

2. Rationale

After the Columbine school shooting in 1999, the United States Secret Service and the United States Department of Education issued reports that examined how to prevent targeted school shootings. *See* U.S. Secret Service and U.S. Dep’t of Education, THE FINAL REPORT AND FINDINGS OF THE SAFE SCHOOL INITIATIVE: IMPLICATIONS FOR THE PREVENTION OF SCHOOL ATTACKS IN THE UNITED STATES (May 2002) (“Final Report”); *see also* U.S. Secret Service and U.S. Dep’t of Education, THREAT ASSESSMENT IN SCHOOLS: A GUIDE TO MANAGING THREATENING SITUATIONS

AND TO CREATING SAFE SCHOOL CLIMATES (May 2002). The Final Report made a series of key findings about targeted school shootings, including the following:

- “Incidents of targeted violence at school rarely were sudden, impulsive acts.”
- “Prior to most incidents, other people knew about the attacker’s idea and/or plan to attack.”
- “Most attackers engaged in some behavior prior to the incident that caused others concern or indicated a need for help.”
- “Most attackers had access to and had used weapons prior to the attack.”

Final Report at 11-12; *see also id.* at 32-33, 34-35, 36.

In light of its findings, the Final Report concluded that educators and law enforcement officials should focus on “developing the capacity to pick up on and evaluate available or knowable information that might indicate that there is a risk of a targeted school attack.” *Id.* at 11; *see also id.* at 41. The Final Report acknowledged that law enforcement authorities and school officials “will need tools, mechanisms and legal processes that can facilitate their efforts to gather and analyze information regarding a student’s behavior and communications.” *Id.* at 41.

The proposed Sandy Hook School Reporting Law – a rough combination of child abuse reporting laws¹ and the *Tarasoff* standard² – is an attempt to provide just such a tool to law enforcement. The statute will help provide authorities with information that will identify threats *before* a gunman arrives at a school or another target of a mass shooting. In addition, like child abuse reporting laws did fifty years ago, the Sandy Hook Reporting Law seeks to change our culture’s mentality with regard to reporting individuals who pose a violent danger to others. All citizens need to begin accepting the responsibility of preventing a mass shooting, and all citizens need to help law enforcement identify imminent threats.

B. Sandy Hook Firearm Safekeeping Law

1. Proposed Text

Our proposed statutory text is as follows:

Any person who:

¹ In approximately 18 States, “any person” is mandated to report child abuse. https://www.childwelfare.gov/systemwide/laws_policies/statutes/manda.cfm.

² *Tarasoff v. Regents of Univ. of California*, 17 Cal. 3d 425, 551 P.2d 334 (1976).

- (1) *owns or possesses a firearm;*
- (2) *fails to secure the firearm such that there is reasonable cause to believe that the firearm is accessible by an individual who is*
 - (a) *mentally ill (as the term is defined below) or*
 - (b) *poses a grave and imminent danger of serious physical injury or death to others;*

and

- (3) *the mentally ill or dangerous individual in fact obtains possession of the firearm,*

is guilty of a felony or misdemeanor.

For purposes of this statute, “mentally ill” is defined as a person who: (1) has undergone treatment for or been diagnosed with a mental illness or neurodevelopmental disorder and (2) is reasonably believed to pose a danger to others.

If the mentally ill or dangerous person possesses the firearm, the crime is a Class A misdemeanor.

If the mentally ill or dangerous person possesses and discharges the firearm, the crime is a Class E felony with a minimum \$25,000 fine.

If the mentally ill or dangerous person possesses the firearm and harms or kills another individual with the firearm, the crime is a Class D felony with a five-year mandatory minimum sentence. The owner of the firearm is also subject to full civil liability, including punitive damages, to the victim(s) of the crime.

2. Rationale

The mentally-deranged gunman who shot Noah and 25 other victims used a firearm that had been purchased by his mother. This proposed statute – which is an outgrowth of 18 U.S.C. § 922(d)(4)³ – seeks to criminalize his mother’s conduct. If the shooter’s mother had survived, we

³ See 18 U.S.C. § 922(d)(4) (“It shall be unlawful for any person to sell or otherwise dispose of any firearm or ammunition to any person knowing or having reasonable cause to believe that such person . . . has been adjudicated as a mental defective or has been committed to any mental institution”).

believe that she should have been subject to criminal prosecution and civil liability.

In addition, the statute recognizes that with gun ownership comes responsibility. The owner of a firearm has the obligation – an obligation to each of his or her fellow citizens – to ensure that the firearm is not accessible by an individual who poses a danger to others. In light of the tragedy at Sandy Hook Elementary, that is a responsibility that all citizens should welcome.

III. School Safety Reforms⁴

Based upon our discussions with school safety experts, we are reluctant to advocate specific school safety reforms that could be applied in every school in the country. Given the wide variety of schools, a proposed safety reform that is “one-size fits all” is unlikely to be the appropriate response. In addition, local communities should generally be able to determine for themselves how to improve safety in their schools.

However, there are ways in which the federal government can help. We believe that the three following proposals will make our children safer in schools.

A. Federal Grants for School Security Reviews

The federal government should fund grants for public schools to undergo security reviews. For schools that obtain the grants, a trained and certified school security expert would travel to the school and undertake a comprehensive security analysis. The expert would thereafter provide the school with a written report containing recommendations to improve security. Depending upon the school’s specific circumstances, such recommendations could include:

- a. Changes in physical design, including those consistent with the principles found in the Crime Prevention Through Environmental Design (CPTED) model;
- b. Trained School Resource Officers;
- c. Security cameras in the halls and classrooms;
- d. Gunshot sensors;
- e. Bullet-proof windows, doors and locks;
- f. Metal detectors;
- g. Structured, anonymous threat reporting system;

⁴ This section of the memorandum was drafted with the *pro bono* advice of Mr. Gregory A. Thomas, who is one of the nation’s top school safety experts.

- h. Random sweeps for firearms or other weapons;
- i. Electronic notification system for school-wide emergency;
- j. Controlled access to buildings or grounds;
- k. Panic buttons;
- l. Intrusion detection systems; and
- m. After-hours security.

B. Federal Grants for School Security Upgrades

Our understanding is that federal grants for K-12 school security (including REMS grants) have been cut dramatically over the past decade. The shooting at Sandy Hook shows that we can no longer continue down that path. Once a school has undertaken the comprehensive security review discussed above, the federal government must provide grants to help that school implement the recommended security upgrades.

C. Mandatory Lockdown Drills

Lockdown drills are one area in which a uniform national approach is appropriate. Noah's two sisters (including his twin) survived the Sandy Hook shooting because their teachers correctly followed lockdown procedures. Just like every school is mandated by law to have fire drills, every school should now be mandated to have lockdown drills as well. Moreover, every school needs to ensure that all substitute teachers are fully trained and prepared for lockdowns. Noah's classroom had a substitute teacher the day he was killed, and his classroom was the one in which the massacre occurred.

IV. Emergency Grief Counseling Reform

This proposal is based upon our direct experience during the aftermath of Noah's murder. After Noah's death, family members underwent an initial extended and horrible period without any mental health assistance. We eventually received the assistance of an excellent psychiatrist who was critical to getting the family through the next three days. But that psychiatrist had volunteered her services; she had traveled at her own expense from another state immediately upon hearing of the Sandy Hook shooting because she knew that families would need help.

For such moments of profound trauma, there needs to be an emergency response team of mental health professionals that is *immediately* available – even if only by telephone – to the families affected. The professionals need to be able to provide grief counseling and, where appropriate, medication to reduce stress and allow sleeping. There should be a national number that the families of victims can call to receive mental health assistance. Finally, there should be funding for a pre-selected group of professionals who can immediately travel to the location of the traumatic event.

V. Conclusion

We hope that the Task Force finds the proposals contained in this memorandum helpful. To the extent that the proposals are not followed, we would respectfully request an explanation. Such an explanation would both help us develop future proposals and allow us to determine whether the proposals set forth above should be re-submitted to another governmental body.

As the maternal family of Noah Pozner, we thank you for providing us with the opportunity to make our voices heard.